UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/520,115 | 01/03/2005 | Olivier Favorel | 0518-1080-1 | 9534 |

466 7590 11/27/2009
YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

| EXAMINER | |
|---|---|
| VETTER, DANIEL | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3628 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 11/27/2009 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/520,115 | FAVOREL ET AL. | |
| | Examiner | Art Unit | |
| | DANIEL VETTER | 3628 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *18 November 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *21-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Status of the Claims*

1. Claims 21-29 were previously pending. Claim 23 was amended in the reply filed November 18, 2009. Claims 21-29 are currently pending.

### *Response to Arguments*

2. Applicant's amendment overcome the rejection of claim 23 under § 112, second paragraph, and it is withdrawn.

3. Applicant's arguments filed with respect to the rejections made under § 103(a) have been fully considered but they are not persuasive.

4. Applicant argues that Boies is not sufficient to teach "determination of a satisfaction value." Examiner respectfully disagrees. The system in Boies determines if all or only some of the requested elements can be met. The seat assignment varies whether or not some or all of the requirements have been met. If all are met, the seat is assigned. If only some are met a seat may be assigned if those that are met are satisfactory to the passenger. Thus, the satisfaction value is used to assign the seats. Applicant argues that Boies is deficient because this process is not considered "summing a satisfaction value based on the numbers that are met." Remarks, page 7. This is not recited in the claims. "Value" is a broad term. During examination the USPTO must give claims their broadest reasonable interpretation in light of the specification. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004). Applicant appears to be arguing a preferred embodiment present in the Specification wherein the "value" is a particular numerical amount resulting from a specific mathematical operation. See Specification, Table 2. However, the claim language is not so narrow. "[A] particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment." *Superguide Corp. v. DirecTV Enterprises, Inc.*, 358 F.3d 870, 875, 69 USPQ2d 1865, 1868 (Fed. Cir. 2004). Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

5. Applicant also argues that Boies does not teach assignment of seats to all customers. "The cited paragraph only discusses the reassignment of some seats based on the incoming requests. It does not discuss the allocation of all the seats as required by the claims." Remarks, page 8. Applicant appears to be improperly conflating the reassignment in Boies with the claimed allocation. The seats are still considered "allocated" because they are given to a specific customer, even if they are not reassigned during that run. Applicant's line of reasoning appears to require that the cited art reassign all the seats; however this is not recited in the rejected claims. As all the seats in Boies are allocated and are done so based upon the customers' satisfaction values, Examiner finds that it teaches the disputed limitations. Accordingly, the rejections under § 103(a) are maintained.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 21, 22, and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boies, et al., U.S. Pat. No. 2002/0082878 (Reference A of the PTO-892 part of paper no. 20080513) in view of Maritzen, et al., U.S. Pat. Pub. 2002/0052797 (Reference A of the PTO-892 part of paper no. 20090608) and Walker, et al., U.S. Pat. No. 6,112,185 (Reference B of the PTO-892 part of paper no. 20080513).

8. As per claim 21, Boies teaches a method for the allocation of seats to customers, usable with a computerized reservation system, comprising: assignment, in a database, to each customer, of data relative to placement criteria (¶ 0038); determination of a

satisfaction value of the customers for each seat as a function of agreement with the placement criteria (¶ 0046), assignment, in a database, to each customer, of a priority level (¶ 0038), assignment of seats to all the customers by allocation with an allocation server, to each customer, of the available seat having the maximum satisfaction value (¶ 0046).

Boies does not teach that the determination is by a processor, and assignment to each placement criterion, of an attribute weight; which is taught by Maritzen (¶¶ 0022-24). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings because this is merely a combination of old and already-known elements. In the combination each element performs the same function as it did separately, and one skilled in the art would have recognized that the combination could be implemented through routine engineering and that the results of the combination were predictable. Moreover, making a determination by a processor rather than a person is merely the automation of an already-known step. Broadly providing an automatic means to accomplish a known activity is not sufficient to distinguish a claimed invention over the prior art. *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). In this case, performing the determination automatically using a processor would have been an obvious expedient that could have been obtained through routine engineering producing predictable results. Examiner notes that while the embodiment set forth as an example in Maritzen does not specifically deal with a seat for travel, one skilled in the art would have recognized that the weighting preferences methodology used in Maritzen are easily extensible for other products and services that have preferable attributes such as an airline seat.

Boies does not explicitly teach that the allocation is by decreasing order of level of priority, which is taught by Walker (col. 6, lines 6-11). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings of Walker because this is merely a combination of old and already-known elements in the travel reservations industry. In the combination each element performs the same function as it did separately, and one skilled in the art would have

recognized that the combination could be implemented through routine engineering and that the results of the combination were predictable.

9. As per claim 22, Boies in view of Maritzen and Walker teaches the method of claim 21 as described above. Boies further teaches the fact that the steps of allocation are repeated upon each new reservation or cancellation of a seat (¶ 0028).

10. As per claim 24, Boies in view of Maritzen and Walker teaches the method of claim 21 as described above. Boies further teaches there is assigned to each seat at least one attribute indicating inclusion in group of available seats, for the definition of the seats available for allocation (¶ 0021).

11. As per claim 25, Boies in view of Maritzen and Walker teaches method of claim 24 as described above. Boies further teaches that there is excluded from the group of available seats, seats whose reservation is confirmed by the customer (¶ 0009).

12. As per claim 26, Boies in view of Maritzen and Walker teaches method of claim 25 as described above. Boies further teaches for customers whose seat has a confirmed reservation, there is carried out a search procedure for a possible better seat by the steps of allocation (¶ 0046).

13. As per claim 27, Boies in view of Maritzen and Walker teaches method of claim 21 as described above. Boies further teaches the placement criteria comprise data as to zone or location of the seats desired by the customer (¶ 0042).

14. As per claim 28, Boies in view of Maritzen and Walker teaches method of claim 21 as described above. Boies further teaches the placement criteria comprise an adjacency criterion of the customer to at least one other customer (¶ 0039).

15. As per claim 29, Boies in view of Maritzen and Walker teaches method of claim 21 as described above. Boies further teaches there is assigned to each placement criterion an attribute defining it either as mandatory or as preferred (¶¶ 0041-43).

16. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boies, et al. in view of Maritzen, et al. and Walker, et al. as applied to claim 21 above, further in view of Official Notice considered admitted prior art.

17. As per claim 23, Boies in view of Walker teaches the program of claim 11 and method of claim 21 as described above. Boies in view of Walker does not teach upon all the available seats being assigned, placing remaining customers on a waiting list. Official Notice was previously taken and not challenged that waiting lists are old and well-known in the reservations art. This finding is considered admitted prior art. It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above finding of Official Notice, for example, so that a list of potential passengers can be easily accessed in the event that another seat becomes available. Moreover, this is merely a combination of old and already-known elements. In the combination each element performs the same function as it did separately, and one skilled in the art would have recognized that the combination could be implemented through routine engineering and that the results of the combination were predictable.

***Conclusion***

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL VETTER whose telephone number is (571)270-1366. The examiner can normally be reached on Monday - Thursday 8:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on (571)272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.
/DPV/

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628